

AMENDED IN ASSEMBLY APRIL 30, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2347**

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**Introduced by Assembly Member Gonzalez**

February 21, 2014

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An act to amend Sections 786, 10127.9, 10127.10, 10127.13, and 10509.6 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2347, as amended, Gonzalez. Insurance policies.

(1) Existing law requires that a disability insurance policy or life insurance policy and certificate offered for sale to individuals 65 years of age or older in California provide a 30-day examination period during which the applicant may return the contract and receive a refund of all premiums and any membership fee paid. This information is required to be disclosed on the cover sheet of the policy or certificate, in no less than 10-point uppercase type. Existing law allows the applicant to return the policy or certificate by regular mail.

This bill would specify that those requirements apply to individual and group disability and group life insurance policies and certificates. The bill would require that the notice be in 12-point bold type *on the front of the policy jacket or on the cover sheet of the policy or certificate*. The bill would allow the policyholder or certificate holder to return the policy or certificate by mail or other delivery method. The bill would also require an insurer, its agent, group master policyowner, or association that collects more than one month's premium from an individual who is 60 years of age or older on the date he or she purchased the coverage to provide that person a prorated refund of the

premium if the person delivers a cancellation request during the first 30 days of the policy period.

(2) Existing law requires a policy of individual life insurance that is initially delivered or issued for delivery in the state on and after January 1, 1990, to have printed thereon or attached thereto a specified notice of cancellation rights.

This bill would require that disclosure to be printed on the *front of the policy jacket or on the cover page* of every individual life insurance policy and individual annuity contract.

(3) Existing law requires specified disclosures, in all capital letters, pertaining to cancellation and refunds, to the consumers of variable individual life insurance policies and variable annuity contracts, and of consumers of individual life insurance policies other than variable contracts and modified guaranteed contracts. Existing law requires an insurer to include in those disclosures that the applicant may be charged a surrender charge or penalty if he or she cancels the policy after the 30-day period, unless the policy does not contain surrender charges or penalties.

This bill would additionally require that those disclosures be included with a modified guaranteed annuity contract, and would instead require that the disclosure be made in lowercase type. ~~The bill would instead require the disclosure pertaining to a surrender charge or penalty to be included only if the policy contains a penalty. This bill would also require an insurer that calls a surrender charge a “withdrawal penalty” to disclose that fact, as specified.~~

(4) Existing law requires all individual life insurance policies and individual annuity contracts for senior citizens that contain a surrender charge period to either disclose the surrender period and all associated penalties in 12-point bold print on the cover sheet of the policy or disclose the location of the surrender information in bold 12-point print on the cover page of the policy or printed on a sticker that is affixed to the cover page or to the policy jacket.

This bill would instead require those policies and contracts to disclose the location of the surrender charge, surrender charge period, and surrender charge information and associated penalty information in bold 12-point print on the *front of the policy jacket or on the single cover page* of the policy ~~that, which would also contain be required to contain~~ any statutorily required notice regarding a right to examine.

The bill would also make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 786 of the Insurance Code is amended  
2 to read:

3     786. All individual and group disability insurance policies and  
4 certificates, and all group life insurance policies and certificates  
5 offered for sale to individuals age 65 or older in California shall  
6 provide an examination period of 30 days after the receipt of the  
7 policy or certificate for purposes of review of the contract. If the  
8 policyholder or certificate holder chooses to cancel the policy or  
9 certificate and returns the policy or certificate for cancellation, by  
10 mail or other delivery method, within the 30-day examination  
11 period, the return shall void the policy or certificate from the  
12 beginning, and the parties shall be in the same position as if a  
13 policy or certificate had not been issued. All premiums paid and  
14 any policy or membership fee paid shall be fully refunded to the  
15 policyholder or certificate holder by the insurer or entity in a timely  
16 manner.

17     (a) For the purposes of this section, a timely manner is no later  
18 than 30 days after the insurer or entity issuing the policy or  
19 certificate receives the returned policy or certificate.

20     (b) If the insurer or entity issuing the policy or certificate fails  
21 to refund all of the premiums and any policy or membership fee  
22 paid, in a timely manner, the policyholder or certificate holder  
23 shall receive interest on the paid premium and policy or  
24 membership fee at the legal rate of interest on judgments as  
25 provided in Section 685.010 of the Code of Civil Procedure. The  
26 interest shall be paid from the date the insurer or entity received  
27 the returned policy or certificate.

28     (c) Each policy or certificate shall have a notice prominently  
29 printed in no less than 12-point bold print, on the *front of the policy*  
30 *jacket or on the* cover page of the policy or certificate and the  
31 outline of coverage, stating that the policyholder or certificate  
32 holder, as applicable, has the right to return the policy or certificate,  
33 by mail or other delivery method, within 30 days after its receipt,  
34 and to have the full premium and any policy or membership fee  
35 paid refunded.

(d) If, at the time of application or at the time of delivery of a group term life insurance policy or certificate, an insurer, its agent, group master policyowner, or association collects more than one month's premium from an individual who is 60 years of age or older on the date he or she purchased coverage, the insurer shall provide the individual with a prorated refund of the premium if the individual delivers a cancellation request to the insurer during the first 30 days of the policy period.

SEC. 2. Section 10127.9 of the Insurance Code is amended to read:

10127.9. (a) (1) Every individual life insurance policy and every individual annuity contract ~~which~~ *that* is initially delivered or issued for delivery in this state on and after January 1, 1990, shall have printed on the *front of the policy jacket or on the cover* page a notice stating that, after receipt of the policy by the owner, the policy may be returned by the owner for cancellation by ~~delivering it or mailing it mail or other delivery method~~ to the insurer or to the agent through whom it was purchased. The period of time set forth by the insurer for return of the policy by the owner shall be clearly stated and this period shall be not less than 10 days nor more than 30 days.

(2) The owner may return the policy to the insurer by mail or other delivery method at any time during the period specified in the notice. In the case of individual nonvariable life insurance policies and individual nonvariable annuity contracts, including modified guaranteed contracts, by delivering or mailing the policy pursuant to this section during the cancellation period, the owner shall void the policy from the beginning, and the parties shall be in the same position as if no policy had been issued. All premiums paid and any policy fee paid for the policy shall be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the policy. In the case of individual variable annuity contracts and individual variable life insurance policies, return of the policy during the cancellation period shall entitle the owner to a refund of the account value and any policy fee paid for the policy. The account value and policy fee shall be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the policy.

1 (b) This section applies to all individual policies issued or  
2 delivered in this state on or after January 1, 1990, but does not  
3 apply to any policy subject to Section 10127.7. All policies subject  
4 to this section which are in effect on January 1, 1990, shall be  
5 construed to be in compliance with this section, and any provision  
6 in any policy which is in conflict with this section shall be of no  
7 force or effect.

8 (c) This section does not apply to individual life insurance  
9 policies issued in connection with a credit transaction or issued  
10 under a contractual policy-change or conversion privilege provision  
11 contained in a policy.

12 (d) General references to “policy” or “policies” in this section  
13 refer to both life insurance policies and annuity contracts.

14 SEC. 3. Section 10127.10 of the Insurance Code is amended  
15 to read:

16 10127.10. (a) Every policy of individual life insurance and  
17 every individual annuity contract that is initially delivered or issued  
18 for delivery to a senior citizen in this state on and after July 1,  
19 2004, shall have printed on the *front of the policy jacket or on the*  
20 *cover page* a notice stating that, after receipt of the policy by the  
21 owner, the policy may be returned by the owner for cancellation  
22 ~~by delivering it or mailing it mail or other delivery method~~ to the  
23 insurer or agent from whom it was purchased. The period of time  
24 set forth by the insurer for return of the policy by the owner shall  
25 be clearly stated in the notice and this period shall be not less than  
26 30 days. The owner may return the policy to the insurer by mail  
27 ~~or otherwise~~ *other delivery method* at any time during the period  
28 specified in the notice. During the 30-day cancellation period, the  
29 premium for an individual variable life insurance policy or an  
30 individual variable annuity contract may be invested only in  
31 fixed-income investments and money-market funds, unless the  
32 owner specifically directs that the premium be invested in the  
33 mutual funds underlying the variable life insurance policy or  
34 variable annuity contract. Return of the policy within the 30-day  
35 cancellation period shall have one of the following effects:

36 (1) In the case of individual variable life insurance policies and  
37 individual variable annuity contracts for which the owner has not  
38 directed that the premium be invested in the mutual funds  
39 underlying the policy during the cancellation period, return of the  
40 policy during the cancellation period shall have the effect of

1 voiding the policy from the beginning, and the parties shall be in  
2 the same position as if no policy had been issued. All premiums  
3 paid and any policy fee paid for the policy shall be refunded by  
4 the insurer to the owner within 30 days from the date that the  
5 insurer is notified that the owner has canceled the policy.

6 (2) In the case of individual variable life insurance policies and  
7 individual variable annuity contracts for which the owner has  
8 directed that the premium be invested in the mutual funds  
9 underlying the policy during the 30-day cancellation period,  
10 cancellation shall entitle the owner to a refund of the account value  
11 and any policy fee paid for the policy. The account value shall be  
12 refunded by the insurer to the owner within 30 days from the date  
13 that the insurer is notified that the owner has canceled the policy.

14 (b) This section applies to all individual life insurance policies  
15 and all individual annuity contracts issued or delivered to senior  
16 citizens in this state on or after January 1, 2004. All policies subject  
17 to this section which are in effect on January 1, 2003, shall be  
18 construed to be in compliance with this section, and any provision  
19 in any policy which is in conflict with this section shall be of no  
20 force or effect.

21 (c) Every individual nonvariable life insurance policy and every  
22 individual nonvariable annuity contract, including modified  
23 guaranteed annuity contracts, subject to this section, that is  
24 delivered or issued for delivery in this state shall have the following  
25 notice printed on the *front of the policy jacket or on the cover page*  
26 in 12-point bold print with one inch of space on all sides, using  
27 the exact language in quotation marks below, with whichever one  
28 of the three bracketed product descriptions that applies to the  
29 product on which the notice appears:

30  
31 “IMPORTANT!  
32

33 You have purchased a [life insurance policy or annuity contract  
34 or modified guaranteed annuity contract]. Carefully review it for  
35 limitations.

36 This policy may be returned within 30 days from the date you  
37 received it for a full refund by returning it to the insurance company  
38 or agent who sold you this policy. After 30 days, cancellation may  
39 result in a substantial penalty, known as a surrender charge.”  
40

The sentence “After 30 days, cancellation may result in a substantial penalty, known as a surrender charge” may be deleted if the policy does not contain a surrender charge. The phrase “known as a surrender charge” may be deleted if the policy contains a penalty but no surrender charge. *If the policy contains both a penalty, or penalties, and a surrender charge, the sentence shall state that cancellation may result in a “[substantial penalty or substantial penalties] and a surrender charge,” with either a “substantial penalty” or “substantial penalties,” whichever applies to the product upon which the notice appears.* Whether a charge constitutes a surrender charge or a penalty shall be determined by the nature of the charge and not the name given to the charge by the insurer. *If the surrender charge is called a “withdrawal charge” in the policy, the insurer shall add the following sentence at the end of the notice:*

*“In this policy the surrender charge is called a ‘withdrawal charge.’”*

(d) Every individual variable life insurance policy and every individual variable annuity contract subject to this section, that is delivered or issued for delivery in this state, shall have the following notice printed on the *front of the policy jacket or on the cover page* in 12-point bold print with one inch of space on all sides, using the exact language in quotation marks below, with whichever one of the two bracketed product descriptions that applies to the product on which the notice appears:

“IMPORTANT!

You have purchased a [variable life insurance policy or variable annuity contract]. Carefully review it for limitations.

This policy may be returned within 30 days from the date you received it. During that 30-day period, your money will be placed in a fixed account or money-market fund, unless you direct that the premium be invested in a stock or bond portfolio underlying the policy during the 30-day period. If you do not direct that the premium be invested in a stock or bond portfolio, and if you return the policy within the 30-day period, you will be entitled to a refund of the premium and any policy fee paid. If you direct that the

1 premium be invested in a stock or bond portfolio during the 30-day  
2 period, and if you return the policy during that period, you will be  
3 entitled to a refund of the policy's account value on the day the  
4 policy is received by the insurance company or agent who sold  
5 you this policy, which could be less than the premium you paid  
6 for the policy, plus any policy fee paid. A return of the policy after  
7 30 days may result in a substantial penalty, known as a surrender  
8 charge.”

10 The sentence “A return of the policy after 30 days may result in  
11 a substantial penalty, known as a surrender charge” may be deleted  
12 if the policy does not contain a surrender charge. *If the policy*  
13 *contains both a penalty, or penalties, and a surrender charge, the*  
14 *sentence shall state that cancellation may result in a “[substantial*  
15 *penalty or substantial penalties] and a surrender charge,” with*  
16 *either a “substantial penalty” or “substantial penalties,”*  
17 *whichever applies to the product upon which the notice appears.*  
18 The phrase “known as a surrender charge” may be deleted if the  
19 policy contains a penalty but no surrender charge. Whether or not  
20 a charge constitutes a surrender charge or a penalty will be  
21 determined by the nature of the charge and not the name given to  
22 the charge by the insurer. *If the surrender charge is called a*  
23 *“withdrawal charge” in the policy, the insurer shall add the*  
24 *following sentence at the end of the notice:*

26 “*In this policy the surrender charge is called a ‘withdrawal*  
27 *charge.’”*

29 (e) If the individual annuity contract is an immediate annuity  
30 contract, the following sentence, using the exact language in  
31 quotation marks below, in 12-point bold print, shall be added at  
32 the end of the right to examine language required by this section  
33 and before the one inch of space:

35 “After the 30-day period has expired, you may not be able to  
36 get your purchase payment money back in any manner, or in any  
37 manner other than in annuity payments made according to the  
38 terms of your contract. The insurance company or agent who sold  
39 you this contract can explain if your contract has these restrictions.”



1 (f) This section does not apply to life insurance policies issued  
2 in connection with a credit transaction or issued under a contractual  
3 policy-change or conversion privilege provision contained in a  
4 policy.

5 (g) For purposes of this chapter, a senior citizen means an  
6 individual who is 60 years of age or older on the date of purchase  
7 of the policy.

8 (h) General references to “policy” or “policies” in this section  
9 refer to both life insurance policies and annuity contracts.

10 SEC. 4. Section 10127.13 of the Insurance Code is amended  
11 to read:

12 10127.13. (a) All individual life insurance policies and  
13 individual annuity contracts for senior citizens that contain a  
14 surrender charge, *including partial surrender, excess withdrawal*  
15 *charges, or penalties upon surrender*, shall disclose the location  
16 of the surrender charge, surrender charge period, and surrender  
17 charge information, as well as any associated penalty information,  
18 in bold 12-point print on the *front of the policy jacket or on the*  
19 *cover page of the policy.* ~~The notice required by this section may~~  
20 ~~appear on a cover sheet that also contains the disclosure required~~  
21 ~~by subdivision (d) of Section 10127.10.~~

22 ~~(b) The notice required by subdivision (a) shall be set forth on~~  
23 ~~the single cover page of the policy that also contains any statutorily~~  
24 ~~required notice regarding a right to examine.~~

25 ~~(b) A policy shall have just one cover page, which shall be the~~  
26 ~~same page upon which any statutorily required notice of a right~~  
27 ~~to examine shall be set forth.~~

28 (c) General references to “policy” in this section refer to both  
29 life insurance policies and annuity contracts.

30 SEC. 5. Section 10509.6 of the Insurance Code is amended to  
31 read:

32 10509.6. Every life insurer that uses an agent in a life insurance  
33 or annuity sale shall do the following:

34 (a) Require with or as part of each completed application for  
35 life insurance or annuity, a statement signed by the agent as to  
36 whether he or she knows a replacement is or may be involved in  
37 the transaction.

38 (b) Where a replacement is involved:

39 (1) Require from the agent with the application for life insurance  
40 or annuity: (i) a list of all of the applicant’s existing life insurance

1 or annuity to be replaced, and (ii) a copy of the replacement notice  
2 provided the applicant pursuant to Section 10509.4. The existing  
3 life insurance or annuity shall be identified by name of insurer,  
4 insured, and contract number. If a number has not been assigned  
5 by the existing insurer, alternative identification, such as an  
6 application or receipt number shall be listed.

7 (2) Send to each existing life insurer a written communication  
8 advising of the replacement or proposed replacement and the  
9 identification information obtained pursuant to this section and a  
10 policy summary, contract summary, or ledger statement containing  
11 policy data on the proposed life insurance or annuity. Cost indices  
12 and equivalent level annual dividend figures need not be included  
13 in the policy summary or ledger statement. This written  
14 communication shall be made within three working days of the  
15 date the application is received in the replacing insurer's home or  
16 regional office, or the date the proposed policy or contract is issued,  
17 whichever is sooner.

18 (3) Every existing life insurer or the insurer's agent that  
19 undertakes a conservation shall, within 20 days from the date the  
20 written communication plus the materials required in subdivisions  
21 (1) and (2) are received by the existing insurer, furnish the  
22 policyowner with a policy summary for the existing life insurance  
23 or ledger statement containing policy data on the existing policy  
24 or annuity. Information relating to premiums, cash values, death  
25 benefits, and dividends, if any, shall be computed from the current  
26 policy year of the existing life insurance. The policy summary or  
27 ledger statement shall include the amount of any outstanding  
28 indebtedness, the sum of any dividend accumulations or additions,  
29 and may include any other information that is not in violation of  
30 any regulation or statute. Cost indices and equivalent level annual  
31 dividend figures need not be included. When annuities are  
32 involved, the disclosure information shall be that in the contract  
33 summary.

34 The replacing insurer may request the existing insurer to furnish  
35 it with a copy of the summaries or ledger statement, which shall  
36 be within five working days of the receipt of the request.

37 (c) The replacing insurer shall maintain evidence of the "notice  
38 regarding replacement," the policy summary, the contract summary,  
39 and any ledger statements used, and a replacement register,  
40 cross-indexed by replacing agent and existing insurer to be

1 replaced. The existing insurer shall maintain evidence of policy  
2 summaries, contract summaries, or ledger statements used in any  
3 conservation. Evidence that all requirements were met shall be  
4 maintained for at least three years.

5 (d) The replacing insurer shall provide on the *front of the policy*  
6 *jacket or on the* cover page of its life insurance policy or annuity  
7 contract or, alternatively, as a separate written document which is  
8 delivered with the life insurance policy or annuity contract, a notice  
9 stating that the owner has a right to an unconditional refund of all  
10 premiums paid which right may be exercised within a period of  
11 30 days commencing from the date of delivery of the contract. In  
12 the case of variable annuities, and variable life insurance, return  
13 of the contract during the cancellation period shall entitle the owner  
14 to a refund of the account value and any policy fee paid. The  
15 account value and policy fee shall be refunded by the insurer to  
16 the owner within 30 days from the date that the insurer is notified  
17 that the owner has canceled the contract.